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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,366	07/17/2003	John F. Cavanagh	10393-41858	5359

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EXAMINER

NOLAND, KENNETH W

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,366

Applicant(s)

CAVANAGH, JOHN F.

Examiner

Kenneth W Noland

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 04-21-05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,3,4,5,8,9,10,11,12,13,14,16,17,18,21,22,23,24,25,26,27,28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufman in view of Wilson. Kaufman shows in figures 8-10 the apparatus and the method for delivering a vendible article having a prize delivery mechanism to hold a premium, coins 246 and the shirt 242 , which is shrink-wrapped. The prize delivery mechanism has a 'carrier' 252a(claim 11,24) or the bottom part of the container (claim 13,26) to*encapsulate the premium. The carrier (bottom part of the bottle) is 'interlocked' with the top part 252b to hold the premium in so much as the top part and the carrier components are coupled together or interlocked.. The components are also considered to be 'weighted' in so much as any component structure would have inherent weight. The prize delivery mechanism is of a size and shape like that of the primary product containers in a local vending machine. In regard to claim 14, the prize delivery mechanism would be 'shipped' in so much as the prize delivery mechanism would need to be inherently transported (shipped) to the local vending machine after its assembly to necessitate the vending from the vending machine. To modify Kaufman's prize delivery mechanism for one having a slot for the receiving of currency (coins) would be obvious in view of the teachings of Wilson's use of the same shaped bottle having a slot 34 for the insertion of coins so that Kaufman's coins 246 may be readily and conveniently placed into the bottle (prize delivery

mechanism). Note also the use of the covering 38 for the coin slot and the use of transparent material for the bottle (see the abstract) and such modifications for Kaufman's bottle would be obvious in view of such teachings of Wilson to effect a better promotion and protection of the prize..

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3. Claims 2,7,15 and 20 are** rejected under 35 U.S.C. 103(a) as being unpatentable over *Kaufman in view of Wilson** as applied to claims 1,3-5,8-14,16-18,21-29** above, and further in view of **Dworman et al. In regard to claims 2 and 15, to modify Kaufman's prize delivery mechanism for one resembling a can, would be obvious as a mere choice of design to so provide any desired shape for the prize delivery mechanism. To provide that the components of Kaufman's prize delivery mechanism are snapped together, would be obvious in view of the teachings of Dworman et al's use of the disclosed snapped together components to also provide for a coin receiving container and to effect a more ready and secure attachment for the components. *.

4. Claims 6 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kaufman in view of Wilson** as applied to claims 1,3-5,8-14,16-18,21-29*** above, and further in view of **Howes. To provide that the components of Kaufman's prize delivery mechanism are screwed together would be obvious in view of the teachings of Howes' use of the screw threads 34,41 in figure 2 to effect the assembly of container components and to effect a more secure attachment of the components.

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5. *Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth W Noland whose telephone number is (571) 272-6941. The examiner can normally be reached on Monday-Thursday ,each week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on (703) 306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 4/24/05
KENNETH W. NOLAND
PRIMARY EXAMINER